

Referral Union Rules
Stakeholder Meeting – SeaTac
June 14, 2001

Attendees:

Don Hoyt, Sheet Metal Workers Local 66
Brad Stephens, Sheet Metal Workers Local 66
Nate Drake, Pacific NW Regional Council of Carpenters
John Morrish, NECA
Gina Bacigalupo, Nelson Electric
Dave Howson, IBEW Local 191
Dan Sexton, Wash. St. Assn. of Plumbers & Pipefitters
Chuck Jewell, Teamsters Local 38
James J. Kodama, Pacific NW Regional Council of Carpenters
Tami St. Paul, Operating Engineers
Mike Wentz, Cement Masons Local 528
Maggie McNamara, Teamsters Local 117
Janet Lewis, IBEW Local 46
Allan Darr, Operating Engineers Local 302
Barry Riedesel, Operating Engineers Local 302
Robert L. “Larry” West III, Plumbers/Pipefitters Local 32
Mike Harding, Plumbers/Pipefitters Local 32
Bart Scherck, Sprinkler Fitters Local 699
Norm Raffaell, AWB/UI Committee
Steve Washburn, NECA
David Johnson, Iron Workers Local 86

Staff:

Howard Nanto
Jerry Iyall
Cheryl Metcalf
Juanita Myers
Jim Wilkins

Meeting convened at 1:15 p.m.

Howard: Opening remarks, purpose of meeting, etc.

Juanita: We are concerned with what happens after the job separation and the claimant has been found eligible for UI. All claimants must be available for work and actively seeking work. Non-union members have to make three employer contacts per week and keep a log. Union members must be in good standing with their union, available for dispatch, and not place unreasonable restrictions on their availability for work. Reviewed concept paper.

Jim Kodama: What happens to those in state apprenticeship program who are in training for a certain week? Can their eligibility for benefits be challenged?

Juanita: Exempt from work search requirements if in commissioner-approved training.

Jim Kodama: Requests we add this to the concept paper.

John Morrish: With reference to the lawsuit currently under appeal, the judge remanded 23 cases to the department for additional factfinding to determine if available for work during weeks in question. What is confusing about that decision?

Juanita: Ruling isn't confusing, but difficult for department to go back after extended period of time and determine specific facts. Order stayed pending appeal.

Jim Kodama: When person files for UI, union receives notices from department. Under this concept paper, who will be verifying the eligibility rules? Looks like this will create tons of paperwork for them. How will the department maintain all verifications that are done? Legal nightmare.

Juanita: The department determines whether the reasons given by the claimant constitute good cause, not the union. The claimant gives us the reason, the union may be asked to verify the reason or provide additional information, and the department decides whether that was good cause. We won't be asking the union whether the person had good cause.

Steve Washburn: The department adopted circular 3-94 in a semi-rulemaking process, after conferring with both labor and management. Then Supplements 1 and 2 were issued without public input, in violation of the APA. As far as item II in concept paper, how does the contractor know if a job is available through the hall? Won't be able to provide department with specific information. Wants to know what is point of concept paper? Is department trying to set up a big wall here, where we claim information can be furnished to create cause for doubting, when in reality it can't be?

Dan Sexton: Disagrees with all of this. If an employer has a job available, would know what the requirements are. Department has no idea if job fits that individual. Ridiculous for employer to claim abuse because there are 10 jobs available, if they have no idea if the jobs fit the people drawing UI.

Gina Bacigalupo: She is an employer. Before, the department used to look at availability questions she raised, but that has changed. Now she provides detailed information such as dispatch requests, specific job information, etc., and she is told

she's not an interested party. Have to find way to make her information count. When she reports misinformation or willful nondisclosure of pertinent information, she's told its more than 30 days past the allowance so not relevant.

Nate Drake: What he's hearing is that jobs aren't getting filled, but that's not true. Looks like the contractors want Book I electricians, not Book IIs. If job being filled, doesn't understand the difficulty.

Jim Kodama: They work with their contractors regarding skills needed for job, duration, etc. to match the appropriate union member. They don't advertise that they have a partnership with their employers but they do. This appears to be an internal problem between NECA and the union.

Steve Washburn: Department can't have it both ways. First department says can't act on 23 cases until appeal resolved, but then says trying to adopt rule in anticipation of appeal decision. With reference to previous comments, their members had to get people from out of state to fill jobs, yet some Book I members were still drawing UI.

Allan Darr: The problem could have to do with the contractors who have the jobs. Maybe they're just bad employers and people don't want to work there.

Jim Kodama: Their union opens books to travelers, those from other areas/states. No problems filling jobs in any location. Some trades are having growing pains, yet still operate under Book I/Book II restrictions. Question is getting workers to work; the concept paper creates additional barriers.

Gina Bacigalupo: If Book I electricians who used to work for her are drawing UI while Book IIs are referred to her, then they aren't available for work and shouldn't be eligible for UI.

Janet Lewis: Proposed rule is vague. There could be legitimate reasons for Book I members not taking jobs. Employers have avenue to question availability through the department. "Seniority" is too vague. Last summer, Local 46 had 200 jobs and practically no one available, so worked to bring others in from different areas to fill jobs.

Dan Sexton: Employers want to choose who they hire. Problem is with employers turning back workers, then complaining if that person draws UI. If they have work available, they should offer it to the person.

John Morrish: As result of discovery process in court case, found rampant abuse in Local 46. 696 people in violation of one of the criteria for referral.

Dan Sexton: Objects to arguing a specific case under appeal, that 99% of those present are not party to. Stick to subject of availability and work search for union members in general.

Steve Washburn: System needs checks and balances; this concept paper does not provide it.

Gina Bacigalupo: If someone is not eligible for rehire with her company, she doesn't appeal their UI. They only do 2-3 turnarounds per year, usually because person not licensed. If person doesn't have a license, and this is OSHA requirement, can't use them. Feels there is no way to get the current laws enforced.

Jim Kodama: Does an employer's tax rate increase with more employees drawing UI?

Jerry: Experience rating system, with higher tax rates based on number and duration of employees drawing UI.

Janet Lewis: The construction industry has a high turnover in general. The employer starts the process by laying people off. Department sends a questionnaire to the union when the claim is filed, then don't go back for more information. Unions don't know how long the person is drawing UI. If union is going to be accountable, need more information.

Larry West: How does the hiring hall know a person is on UI?

Cheryl: Currently, the department only notifies the union at initial claim, or when claim is reopened after intervening employment.

Gina Bacigalupo: No one expects zero unemployment. But if work is available and they're drawing UI, they should be held accountable.

Dave Howson: If person without a state license, there still could be work they can do, thus eligible for referral and seeking work. Always has some electricians staying at home at the employer's request (standby), yet the employer is questioning the eligibility of others.

John Morrish: This doesn't apply to Local 46.

Larry West: Applies to all unions; don't beat up on 46. Concentrate on concept paper.

Gina Bacigalupo: State can't police the licensing requirements. But if the person hasn't renewed his license, shouldn't be eligible for UI.

Dan Sexton: (to Gina) What's the problem if this person hasn't worked for you? If you don't hire unlicensed electricians, the fact that an unlicensed person is drawing UI shouldn't affect you.

Gina Bacigalupo: Not just concerned about herself, but the good of all.

Dan Sexton: Same response. If the unlicensed person has never worked for that employer, what's the employer's concern about him receiving UI?

Nate Drake: Unlicensed electricians can do some work, only restricted from certain jobs.

Dan Sexton: Doesn't matter; we're not here to debate unlicensed electricians.

Gina Bacigalupo: If a person can't meet the legal requirements to accept employment, then they shouldn't be eligible for UI.

Dave Howson: If they meet the union's requirements and are eligible for dispatch, they can be on the union list.

Janet Lewis: For some jobs, can get a one day license. Also, there are ways to get a license immediately so technically "unlicensed" person could have a license the very next day. Not an issue.

John Morrish: Despite the fact that a union has rules allowing workers to refuse certain jobs, this doesn't excuse an individual's requirement to be available for work in order to receive UI. State has to adjudicate these issues.

Jim Kodama: How does the department verify good cause? Does the union have to verify the reason for refusal?

Cheryl: Generally, interview claimant and employer. May ask for some information from union.

John Morrish: On Jan. 31, 2001, Commissioner's decision in Sykora case established there was a cause for doubting that person's availability. Is department now departing from this standard?

Howard: We'll have to review decision.

(Break. Howard went through sign-in sheet and called on those in attendance for additional comments.)

Norm Raffaell: From outsider's perspective, looks like parties need to communicate with each other.

David Johnson: Looks like this is turning the hiring halls into a monitoring agency. Every hall has different procedures and problems. Their union covers the entire state from one local. They have members in eastern Washington who can't come into the hiring hall, but are in phone contact as required. In determination process, if a member is deemed unavailable, cut off from benefits until can get appointment and talk to ESD. Could have workers with no UI for weeks, then determine they were eligible all along; hardship. No need to fix system; work on communications.

Mike Wentz: Issue limited to problems with unions that need licensed workers. This doesn't apply to all unions. Applying these rule changes to all unions isn't fair.

Maggie McNamara: Requests we reword the letter we send to claimants telling them their eligibility is in question, as it causes confusion. Could we direct people when the initial claim is filed that they need to contact their union and apply for dispatch?

Janet Lewis: Doesn't see need for rules. The employer can challenge, but needs to provide specific information. Don't want vague cause for doubting standard.

Dan Sexton: Ultimately his position will be what he's told. Initially he was opposed to the whole concept paper, then half, now it's starting to make sense. A rule would be helpful. We don't know what the court will do and it could set a standard that doesn't make sense. Likes specifics--limit to specific employer with a specific employee and a specific job.

Chuck Jewell: Their industry is changing the types of equipment used, and employers not doing training to keep their older workers on. Prefer younger workers trained in new equipment. Employers shouldn't be able to use that issue to challenge someone's eligibility, when they haven't done the necessary training.

Jim Kodama: Thanks the department for holding these forums. Asks us to use this input when deciding what is good cause. Understands Dan's concerns over how the court will rule, but this issue doesn't affect them. Would like to see a study of the costs of this new monitoring and verification system. Doesn't want to see department take money from other programs and use it on this.

Juanita: Next steps—after meeting in Spokane, will review all input received. Decide whether to go forward with rulemaking. If so, will share draft rule and provide additional opportunity for input. Then there will be another opportunity at the hearing on the rule (if any). August at earliest for draft rule.

Howard: Thanks for attending.

Adjourned at 3:10 p.m.